



Comptroller General  
of the United States

Washington, D.C. 20548

*Cary*

## Decision

**Matter of:** Massa Products Corp.

**File:** B-236892

**Date:** January 9, 1990

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### DIGEST

1. Protest that agency allowed insufficient time for preparation of proposals is denied where period allowed exceeded the statutorily mandated minimum time and did not preclude full and open competition.
2. Solicitation that grouped eight sonar transducers in one package for purposes of an all-or-none procurement, instead of further subdividing the group into two packages ("build to specification" and "build to print"), as suggested by protester, was not unduly restrictive of competition; the agency had a reasonable basis for concluding that inclusion of eight transducers in one group, based on similarity of function and commonality of materials and production processes, would best meet its minimum needs by promoting efficiency and economy, and that the protester's approach may have tended to reduce competition overall.

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### DECISION

Massa Products Corp. protests the terms of request for proposals (RFP) No. N00024-89-R-6000, issued by the Department of the Navy for sonar transducers. The RFP consolidates several types of transducers and other elements of sonar systems into five separate groups. According to Massa, the manner in which the Navy has grouped the transducers that comprise Group 1 is unduly restrictive of competition. In addition, Massa contends that the Navy did not allow sufficient time for the preparation of proposals.

We deny the protest.

### BACKGROUND

In January 1988, the Navy notified all known transducer manufacturers of its intention to consolidate numerous transducer procurements into a small number of packages. At

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the same time, the Navy solicited comments regarding the reasonableness of the proposed groupings of items. In March 1988, Massa replied that the concept of grouping transducers was a sound one, suggested that the groups be based on similarity of mechanical structures and operating frequencies, and stated that each group should represent similar dollar amounts of deliverable items. In November 1988, the Navy established a technical library with detailed technical data pertaining to the transducers being solicited, including drawings for the "build-to-print" transducers (i.e., those items to be built by the contractor in accordance with a government-approved drawing package, with design responsibility residing with the government) and, for informational purposes, all available drawings for "build-to-specification" items (those transducers for which drawing packages were not available, and for which design responsibility resided with the contractor).

The RFP, as issued on April 17, 1989, provides that, for each of five groups of transducers, an offeror may receive an award to manufacture only one group, and that the contract to manufacture the items within each group is to be awarded on an all-or-none basis. The solicitation further provides that the contract for each group will be awarded to the technically acceptable offeror that proposes the lowest cost to the government, consistent with the objective of awarding contracts to multiple sources (price and other factors considered), provided that the offeror has not been awarded a contract for any other group. The RFP as a whole solicits offers for 19 transducers; Group 1 (the only one of the five groups to which Massa objects) consists of four build-to-print and four build-to-specification transducers.

The solicitation initially provided for the submission of initial proposals by June 30, but by subsequent amendment the Navy extended the due date to September 1. In early June, Massa suggested to the Navy that the eight transducers comprising Group 1 be divided into two smaller groups, one consisting only of the less involved build-to-print transducers, and the other of the more complicated build-to-specification items, in the belief that this subgrouping would increase competition on the build-to-print items. By the end of June, five companies had purchased the Navy's drawing packages for Group 1. Based on its belief that this expression of interest by five of the seven known previous manufacturers indicated that there would be adequate competition, as well as on other considerations, the Navy determined that Group 1 should remain intact and not be further subdivided. Massa protested the Navy's decision to our Office. The Navy has delayed making an award for Group 1 pending the outcome of the protest.

## ARGUMENTS

Massa asserts that, given enough time, all experienced companies that design and manufacture sonar transducers could propose on any of the 19 transducers included in the solicitation. However, in the period of time allowed for the preparation of proposals, the protester asserts that no firm could propose on Group 1 unless it organized a team that included the prior producers of the four build-to-specification transducers. Specifically, although the total amount of time between issuance of the RFP and the date proposals were due was 4-1/2 months (April 17 to September 1), Massa points out that much of that time was due to extensions. According to the protester, at no time did prospective offerors have a reasonable expectation of more than 2-1/4 months to prepare a proposal on Group 1. That period of time, Massa asserts, was too short to prepare a competent technical proposal on multiple build-to-specification transducers, for any firms but the prior manufacturers.

Massa further asserts that, despite any technical rationale the Navy may have had for retaining all eight transducers in Group 1, as a practical matter it is possible for only one firm (Hazeltine) to propose on the group. Further, Massa asserts that the particular grouping of items included in Group 1 does not reflect the agency's minimum needs. For example, according to Massa, all 19 of the transducers included in the procurement are similar to each other and have component materials in common. Thus, according to the protester, there was no reason to group these particular items together, as opposed to using the alternative groupings suggested by Massa.

## ANALYSIS

### Proposal Preparation Time

As a general matter, a contracting agency is required by statute to allow a minimum 30-day response period for procurements. See 15 U.S.C. § 637(e)(3)(B) (1988). Here, the Navy allowed a total of 4-1/2 months between the date the RFP was issued and the date on which proposals were due. Even were we to accept Massa's argument that the meaningful period of time was only 2-1/4 months, that period of time also was clearly in excess of the 30 days required by statute. Further, as noted above, the record shows that the Navy made technical data for the Group 1 transducers available in late 1988, well before it issued the solicitation, and that Massa was on notice as early as March 1989 that the Navy proposed grouping all eight transducers in one

package. Moreover, the record indicates that when Massa corresponded with the Navy in June 1989 (when it was aware of the composition of Group 1), the firm did not request an extension beyond the beginning of September; that no other offeror requested an extension beyond July; and that the Navy, in considering Massa's requests for extensions, determined that it could extend the deadline for an additional 2 months, but that delaying the submission of proposals any longer would jeopardize the timely delivery of certain transducers for which there was an urgent need.

Since the time allowed was consistent with statutory requirements, and Massa has not established that the time allowed was unreasonable or insufficient, particularly when measured from its initial awareness of the Navy's intentions regarding the groupings, we have no reason to object to the procurement on the ground that insufficient time was allowed for the preparation of proposals. See Control Data Corp., B-235737, Oct. 4, 1989, 89-2 CPD ¶ 304 (agency's allowance of only 31 days found sufficient for preparation of proposals).

#### Restrictiveness of Group 1

Massa's allegation that the Group 1 items should be further subdivided for solicitation purposes is essentially a challenge to the Navy's use of a package approach. Where, as here, a protester contends that acquiring certain items as part of a total package rather than breaking them out unduly restricts competition, we will object only where the agency's choice of a total package approach as necessary to meet its minimum needs lacks a reasonable basis. See Eastman Kodak Co., 68 Comp. Gen. 57 (1988), 88-2 CPD ¶ 455. Based on our review of the record in this case, we find that the Navy had a reasonable basis for structuring the procurement as it did.

The Navy reports that it selected the eight sonar transducers that comprise Group 1 primarily on the basis of similarity of function (high-frequency applications) and the level of complexity required in their manufacture. In addition, the Navy asserts that the particular transducers included in Group 1 were selected to maximize commonality of parts and procedures in the manufacturing process, thus resulting in lower costs, in accord with Massa's own suggestions prior to issuance of the RFP. The Navy points out, for example, that six of the eight items in the group use an identical ceramic material for the stack of ceramic disks that permit the transducers to convert energy from sound waves into electrical energy. The Navy states that there were distinct benefits to be derived from retaining

all eight of the models in one group, instead of adopting Massa's suggestion that the two categories of transducers be established as two smaller groupings. For example, because all eight operate in the same context (high frequency applications in a submarine environment), and have the same level of complexity associated with their design and manufacture, the Navy determined that valuable experience could be gained in the manufacture of the build-to-print items that could be applied to the manufacture of the build-to-specification items. Such benefits, however, could be obtained only if both categories of transducers were manufactured by the same firm--that is, only if the contract for their manufacture were awarded as a package.

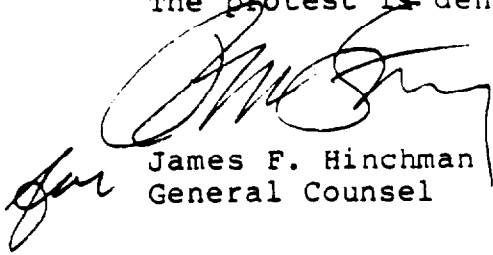
Further, the Navy points out that Group 1 was not developed in a vacuum; rather, it and the other four groups included in the RFP, according to the Navy, were formulated as a whole to promote competition overall. The Navy determined, for example, that because the dollar value of Group 1 was similar to that of other groups, a larger number of offerors could be expected to propose on each one of the groups, rather than concentrate only on one particular group because it happened to have the highest dollar value; as noted above, Massa itself had suggested that the dollar value of each group should be approximately equal. If Group 1 were to be subdivided in the manner suggested by Massa, however, the dollar value of the build-to-specification subgroup would equal approximately 11 percent of the total for all groups, while the build-to-print group would equal only 4 percent; the Navy concluded that such an arrangement would lead to more offerors competing for the higher dollar value group, and fewer competing for the lower value group, to the detriment of competition overall.

We have found similar justifications adequate to support contracting agencies' use of a package approach as opposed to an alternative approach urged by a protester. For example, in Eastman Kodak Co., 68 Comp. Gen. 57, supra, we found merit in the agency's explanation that its package approach, which grouped together a larger number of items than the protester preferred, could be expected to encourage competition overall because it eliminated the possibility that an offeror might receive an award for only a lower number of items that would have been less profitable.

Massa argues that we should take into account the number of offerors that actually submitted proposals on Group 1 in determining whether the solicitation is unduly restrictive of competition, and speculates that only one, Hazeltine, actually proposed on the group. It is well-established, however, that if a solicitation requirement was reasonably

determined to be necessary, the fact that only one firm can comply with it does not indicate that a violation of the competitive procurement regulations has occurred. See Computer Tomography Repair Serv., Inc., B-228050, Nov. 2, 1987, 87-2 CPD ¶ 428. Where the agency reasonably determines that one integrated contract is necessary to meet its needs, the package approach is consistent with the statutory requirement for full and open competition. Eastman Kodak Co., 68 Comp. Gen. 57, supra. Since we have found here that the agency's inclusion of eight transducers in Group 1 for award as an all-or-none package was reasonably designed to enhance competition on the procurement as a whole and to take advantage of potential technical benefits, the number of offerors that ultimately responded to that part of the solicitation would be irrelevant.<sup>1/</sup>

The protest is denied.



James F. Hinchman  
General Counsel

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<sup>1/</sup> Massa also complains that it was unable to compete on Group 1 as part of a teaming arrangement because Hazeltine already had entered into an exclusive arrangement with another firm, EDO, under which neither firm would sell its products nor services to Massa. This argument, however, concerns business arrangements by potential offerors; we will not consider such matters under our bid protest function. See Leigh Instruments, Ltd., B-233642, Feb. 13, 1989, 89-1 CPD ¶ 149.